

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DONALD COLE BURCHETT,)	CASE NO. C05-0287-JCC-MAT
)	
Plaintiff,)	
)	
v.)	ORDER RE: PENDING MOTIONS
)	BY PLAINTIFF
CAROL VAN BUREN, et al.,)	
)	
Defendants.)	
_____)	

On February 17, 2005, plaintiff, proceeding *pro se*, submitted a complaint pursuant to 42 U.S.C. § 1983. (Dkt. #1). In the complaint, plaintiff alleged that prison officials had interfered with both his incoming and outgoing legal mail. (Dkt. #11 at 3). Since he filed the complaint, plaintiff has filed approximately eighteen motions or letters requesting various types of relief. Most recently, plaintiff has filed a motion for summary judgment (Dkt. #33), a motion requesting that the court order the Department of Corrections to provide copies of certain documents to plaintiff (Dkt. #34), a second motion to appoint counsel and supplement the record (Dkt. #36), a motion for voluntary dismissal (Dkt. #37), and a motion for a protective order. (Dkt. #39). Having considered the motions and the balance of the record, the court does hereby find and ORDER as follows:

(1) Plaintiff's motion for summary judgment (Dkt. #33) consists of a one-page letter in which he states that he previously submitted evidence supporting his claim to the court. (Dkt.

01 #22). It is unclear which "evidence" plaintiff is referring to. In his subsequent motion to appoint
02 counsel and supplement the record (Dkt. #36), plaintiff attaches various exhibits. In the absence
03 of other evidence, the court will construe these exhibits as part of plaintiff's motion for summary
04 judgment and will consider them when the court reviews the motion for summary judgment, which
05 is presently noted for consideration on August 5, 2005.

06 (2) In his motion requesting that the court order the Department of Corrections
07 ("DOC") to provide copies of certain documents to plaintiff (Dkt. #34), plaintiff states that
08 evidence supporting his claim is in the possession of the DOC, but that because he is indigent, he
09 cannot afford to pay for copies. Plaintiff is advised that his status as proceeding *in forma pauperis*
10 in this court does not entitle him to funds to pay for copies. However, plaintiff may be able to
11 obtain these copies by making a discovery request to defendants pursuant to the Federal Rules of
12 Civil Procedure. Accordingly, plaintiff's motion (Dkt. #34) is DENIED.

13 (3) Plaintiff's motion for appointment of counsel (Dkt. #36) is DENIED for the
14 reasons stated in the court's previous Order denying appointment of counsel. (Dkt. #32).

15 (4) Plaintiff's motion for voluntary dismissal (Dkt. #37) and his motion for a protective
16 order (Dkt. #39) must be considered in tandem. In his motion for voluntary dismissal, plaintiff
17 asks not only to dismiss this § 1983 action, but also that he be ordered to pay all costs and
18 reasonable attorney fees incurred by the defendants. (*Id.*) In his motion for a protective order,
19 plaintiff states that he filed the motion for voluntary dismissal due to threats he was receiving from
20 DOC employees. Plaintiff does not identify these employees nor does he specify the threats or
21 other coercive action taken by them. Accordingly, the motion for a protective order is construed
22 solely as a motion to retract plaintiff's motion to dismiss. So construed, the motion (Dkt. #39)
23 is GRANTED and the Clerk shall STRIKE the motion for voluntary dismissal (Dkt. #37).

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01 (5) The Clerk is directed to send a copy of this Order to plaintiff and to counsel for
02 defendants.

03 DATED this 29th day of July, 2005.

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05 Mary Alice Theiler
06 United States Magistrate Judge
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